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IN THE
Supreme Court of the United States

OCTOBER TERM, A. D. 1951.

No. 349

**FIRST NATIONAL BANK OF CHICAGO, AS EXECUTOR
OF THE ESTATE OF JOHN LOUIS NELSON, DECEASED,**

Petitioner,

vs.

UNITED AIR LINES, INC., A CORPORATION,

Respondent.

PETITION FOR REHEARING.

HOWARD ELLIS,
33 North LaSalle Street,
Chicago 2, Illinois,
Attorney for Respondent.

**DAVID JACKER,
CHARLES M. RUSH,
JOHN M. O'CONNOR, JR.,**
Of Counsel.

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Now comes United Air Lines, Inc., a corporation, respondent, and presents this, its petition for a rehearing of the above entitled cause, and in support thereof respectfully shows:

The net practical result of the majority opinion is that the Utah Legislature has been empowered to veto what cases must be heard in the Illinois courts. By the same token, so have been the Legislatures of all the States.

The plaintiff in the instant case could have had his day in court in Utah, where the cause of action arose—a cause of action created by the Utah Legislature. Herein lies the difference between the instant case and *Hughes v. Fetter*, 341 U. S. 609, where the plaintiff had no day in court—and was hence denied due process of law—if the Wisconsin statute was valid. Plaintiff still can have his

day in court in Utah, if the cause is transferred there, or in the Federal courts in Illinois, if the Illinois statute is held inapplicable to the Federal courts.

The majority opinion nullifies a portion of the Illinois Injuries Act by virtue of its interpretation of the Full Faith and Credit Clause. The resulting danger from such interpretation was pointed out by Mr. Justice Black in *Order of Travelers v. Wolfe*, 331 U. S. 586, 627, 642, in which he warned against imposing a "state of vassalage" on the forum and against nullifying "a great purpose of the original Constitution, as later expressed in the Tenth Amendment, to leave the several states free to govern themselves in their domestic affairs."

The available history of the Full Faith and Credit Clause indicates that the purpose of that clause was to prevent litigants from escaping their just obligations by crossing state lines. (The Authenticated Full Faith and Credit Clause; Its History—Radin, 39 Ill. Law Review 1; Full Faith and Credit—The Lawyer's Clause of the Constitution—Jackson, 45 Columbia Law Review 1; dissenting opinion, *Hughes v. Fetter*, 341 U. S. 609, 614-615.) The Illinois statute cannot and does not have that effect.

This case does not involve a conflict between the Full Faith and Credit Clause and the legislation of a given state: it involves the basic conflict between the strong unifying principle embodied in the Full Faith and Credit Clause and the stronger policy, explicitly spelled out by subsequent Constitutional Amendment, to leave the States free to govern themselves in their domestic affairs—a conflict overlooked both in *Hughes v. Fetter* and in the majority opinion in this case.

Illinois, a magnet to foreign litigation because of large jury verdicts, should have the right, power, and even duty, to control its own courts, so that its citizens will not be

subject to long and expensive delays. The present invalidation of the Illinois statute will bring a flood of death cases to Illinois' already overcrowded courts—cases which could not be brought in Illinois when the plaintiff had his day in court in the forum of the occurrence.

For the foregoing reasons, it is respectfully urged that this petition for rehearing be granted.

Respectfully submitted,

HOWARD ELLIS,
*Counsel for Respondent, United
Air Lines, Inc.*

CERTIFICATE OF COUNSEL.

I, Howard Ellis, Counsel for the above named Respondent, do hereby certify that the foregoing petition for rehearing of this cause is presented in good faith and not for delay.

HOWARD ELLIS,
*Counsel for Respondent, United
Air Lines, Inc.*